

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SEIKO EPSON CORP. et al.,

Plaintiffs,

vs.

INKSYSTEM LLC et al.,

Defendants.

3:16-cv-00524-RCJ-VPC

ORDER

This case arises out of alleged counterfeiting and other unauthorized use of trademarks in connection with computer printer ink cartridges. Plaintiff Seiko Epson Corp. ("Seiko") is a Japanese corporation that owns eight registered trademarks at issue in the present case, U.S. Trademark No. 1,134,004 ("EPSON"); 2,144,386 ("EPSON"); 2,949,374 ("EPSON"); 3,092,025 ("EPSON"); 3,520,274 ("EPSON"); 3,448,351 ("EPSON EXCEED YOUR VISION"); 3,333 ("Better Products for a Better Future"); and 2,644,235 ("DURABRITE") (collectively, "Marks"). Plaintiff Epson America, Inc. is a California corporation and Seiko's sole licensee of the Marks. Defendants are Nevada and California residents and business entities.

23 Plaintiffs allege that Defendants import, modify, repackage, advertise, distribute, and/or
24 sell at least three types of infringing cartridge: (1) counterfeit ink cartridges manufactured abroad

1 bearing one or more of the Marks; (2) genuine Epson cartridges sold abroad with printers that are
2 not intended for resale; and (3) genuine Epson cartridges sold abroad that are expired or nearly
3 expired. As to the latter two categories of cartridge, Defendants remove them from their original
4 packaging, reprogram or otherwise modify them to work in American printers (they otherwise
5 would not), and repackaging them with counterfeit Epson labels. In the process, Defendants
6 degrade the quality and lifespan of the ink, remove instructions for use with the cartridges and
7 other important consumer information such as the expiration date, and add their own false
8 advanced expiration dates. Defendants' activities infringe the Marks, deceive consumers, and
9 damage Plaintiffs' goodwill.

10 Plaintiffs sued Defendants in this Court for trademark counterfeiting and infringement
11 under 15 U.S.C. § 1114 *et seq.* and unfair competition and false advertising under § 1125 *et seq.*
12 The Court granted a temporary restraining order ("TRO") and after a hearing granted a
13 preliminary injunction, enjoining certain offending activity and ordering the seizure and
14 impoundment of the accused goods. Discovery has been problematic. Plaintiffs asked the
15 Magistrate Judge to issue a report and recommendation for terminating sanctions against certain
16 Defendants for their continued intransigence. InkSystem, LLC and Lucky Print, LLC
17 (collectively, "Debtors") filed for Chapter 11 bankruptcy protection. Plaintiffs asked for another
18 TRO seizing Defendants' assets (minus the assets of Debtors). The Court granted the motion
19 and later granted a preliminary injunction when Defendants failed to appear at the hearing. In
20 the meantime, the Magistrate Judge recommended that the sanction of default be entered against
21 Defendants Art LLC, AF LLC, Inkredible LLC, Andriy Kravchuk, Artem Koshkalda, Igor
22 Bielov, and Vitalii Maliuk. The Court adopted that recommendation. The Clerk had previously
23 entered the defaults of Defendants Veles LLC, Alado LLC, Karine LLC, Karine Vardanian,
24

1 Vladimir Slobodianiuk, Kristina Antonova, and Roman Taryanik for failure to answer or defend.

2 The Clerk has since entered the defaults of InkSystem LLC, KBF LLC, and Lucky Print LLC.

3 The Court has denied several motions to reconsider the preliminary injunction and to
4 release funds. When they failed to appear to show cause why they should be held in contempt
5 for violations of the preliminary injunction, the Court issued an order of contempt as to
6 Defendants Artem Koshkalda and Vladimair Westbrook. Bench warrants for their arrest issued.
7 Koshkalda appeared at a later hearing, and the Court ordered him to undergo a judgment debtor
8 exam. The Court has entered default judgment against Defendants. The Court also granted a
9 motion for a receiver for Koshkalda's assets, but he petitioned for bankruptcy protection (Case
10 No. 18-bk-30016 in the Northern District of California) before the proposed written receivership
11 order and a proposed amendment thereto were approved. In that bankruptcy action, there are
12 pending motions to dismiss the bankruptcy case and to lift the automatic stay, with a hearing for
13 the latter motion scheduled for March 8.

14 The Court will defer ruling on the receivership motions pending resolution of the lift-stay
15 and/or dismissal motions in Koshkalda's bankruptcy action. Several older motions are also
16 pending in the docket of the present case. First, the motions for orders of contempt against
17 Koshkalda and Westbrook have been determined. (*See* Order of Contempt, ECF No. 250).
18 Those motions will be administratively terminated. Second, a September 29, 2017 motion for a
19 hearing on then-pending motions is moot. Third, Koshkalda's and ART LLC's motion for return
20 of certain seized items and to obtain an inventory, as well as Kravchuk's and Inksystem LLC's
21 similar motion, are denied. Plaintiffs have provided an inventory of the seized items, (*see* Wang
22 Decl., ECF Nos. 17, 34), and return of the items is not appropriate, as the seizure of those items
23 was in accordance with the Court's orders.

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CONCLUSION

2 IT IS HEREBY ORDERED that the Clerk shall administratively TERMINATE the
3 Motions for Orders of Contempt (ECF Nos. 155, 218).

4 IT IS FURTHER ORDERED that the Motion for Hearing (ECF No. 219) is DENIED as
5 moot.

IT IS FURTHER ORDERED that the Motions to Obtain an Inventory (ECF No. 177, 271) are DENIED.

8 IT IS FURTHER ORDERED that rulings on the Motion to Appoint Receiver (ECF No.
9 274) and the Stipulation Between Plaintiffs and Lender re Receivership (ECF No. 298) are
10 DEFERRED.

11 IT IS FURTHER ORDERED that the parties shall immediately inform the Court upon
12 the determination of the motion to dismiss, the motion to lift the automatic stay, or any other
13 relevant rulings in Bankruptcy Case No. 18-30016 in the Northern District of California.

14 IT IS SO ORDERED.

15 | Dated this MARCH 27, 2018.

ROBERT C. JONES
United States District Judge